

ESTTA Tracking number: **ESTTA537298**

Filing date: **05/10/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Amcor Industries, Inc.
Granted to Date of previous extension	06/19/2013
Address	2011 East 49th Street Los Angeles, CA 90058 UNITED STATES
Attorney information	Michael P. Martin Fischbach, Perlstein, Lieberman & Almond, LLP 1925 Century Park East, Suite 2050 Los Angeles, CA 90067 UNITED STATES mmartin@fpllaw.com Phone:3105561956

Applicant Information

Application No	85695817	Publication date	02/19/2013
Opposition Filing Date	05/10/2013	Opposition Period Ends	06/19/2013
Applicant	Car Tattoos Decals And Sportswear Ltd. 123 Bellevue Place Yonkers, NY 10703 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2012/03/01 First Use In Commerce: 2012/03/01
All goods and services in the class are opposed, namely: Clothing, namely, t-shirts, sweatshirts, hooded sweat shirts, tank tops, sleeveless shirts, buttoned work shirts, bandannas, underwear, jackets, and vests

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3542492	Application Date	04/25/2007
Registration Date	12/09/2008	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	The mark consists of design image of a gorilla face.
Goods/Services	Class 012. First use: First Use: 2006/10/01 First Use In Commerce: 2006/10/01 heavy duty all terrain vehicle (ATV) shock absorbers Class 025. First use: First Use: 2006/03/01 First Use In Commerce: 2006/03/01 hats; shirts Class 035. First use: First Use: 2006/03/01 First Use In Commerce: 2006/03/01 advertising, including promotion of products and services of third parties through sponsoring arrangements and license agreements relating to international sports' events, namely, sponsoring participation of a race team in off-road all terrain vehicle racing

U.S. Registration No.	3566327	Application Date	04/18/2008
Registration Date	01/27/2009	Foreign Priority Date	NONE
Word Mark	GORILLA GUARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1986/01/00 First Use In Commerce: 1986/01/00 Automotive accessories, namely, wheel locks, wheel lug nuts and wheel installation kits comprising lug nuts, wheel locks and valve stems		

U.S. Registration No.	3381925	Application Date	06/19/2006
Registration Date	02/12/2008	Foreign Priority Date	NONE
Word Mark	G		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2004/02/24 First Use In Commerce: 2004/02/24 automotive accessories, namely, wheel locks		

U.S. Registration No.	1988115	Application Date	02/06/1995
Registration Date	07/23/1996	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1994/03/08 First Use In Commerce: 1994/03/08 anti-theft alarms for motorcycles		

U.S. Registration No.	1914798	Application Date	09/14/1994
Registration Date	08/29/1995	Foreign Priority	NONE

		Date	
Word Mark	GORILLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1994/03/08 First Use In Commerce: 1994/03/08 anti-theft alarms for motorcycles		

U.S. Registration No.	1863650	Application Date	09/10/1993
Registration Date	11/22/1994	Foreign Priority Date	NONE
Word Mark	GORILLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1983/08/00 First Use In Commerce: 1983/08/00 anti-theft devices for automotive vehicles; namely, bar-type steering wheel immobilization locks; automotive accessories; namely, [door guard protectors,] wheel locks, bolt locks, hub covers, spinners, wheel emblems, lug nuts, wheel brushes, lugwrenches, tire pressure gauges and valve stems		

U.S. Registration No.	1863649	Application Date	09/10/1993
Registration Date	11/22/1994	Foreign Priority Date	NONE
Word Mark	GORILLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1983/08/00 First Use In Commerce: 1983/08/00 anti-theft devices for automotive vehicles; namely, bar-type steering wheel immobilization locks; automotive accessories; namely, [door guard protectors,] wheel locks, bolt locks, hub covers, spinners, wheel emblems, lug nuts, wheel brushes, lugwrenches, tire pressure gauges and valve stems		

U.S. Registration No.	1706562	Application Date	02/08/1991
Registration Date	08/11/1992	Foreign Priority Date	NONE
Word Mark	THE GORILLA GRIP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1990/07/00 First Use In Commerce: 1990/08/00 anti-theft devices for automotive vehicles; namely, bar-type steering wheel immobilization locks		

U.S. Registration No.	1711516	Application Date	02/08/1991
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Registration Date	09/01/1992	Foreign Priority Date	NONE
Word Mark	GORILLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1983/08/00 First Use In Commerce: 1983/08/00 [anti-theft devices for automotive vehicles; namely, bar-type steering wheel immobilization locks and]automotive accessories; namely, door guard protectors		

U.S. Registration No.	1711516	Application Date	02/08/1991
Registration Date	09/01/1992	Foreign Priority Date	NONE
Word Mark	GORILLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1983/08/00 First Use In Commerce: 1983/08/00 [anti-theft devices for automotive vehicles; namely, bar-type steering wheel immobilization locks and]automotive accessories; namely, door guard protectors		

U.S. Registration No.	1483315	Application Date	07/30/1987
Registration Date	04/05/1988	Foreign Priority Date	NONE
Word Mark	GORILLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1983/08/00 First Use In Commerce: 1983/08/00 VEHICLE WHEEL ACCESSORIES; NAMELY, LUG NUTS, LOCKING LUG NUTS, HUB COVERS, WHEEL STUDS, VALVE STEMS, VALVE STEM COVERS, LUG NUT COVERS, WASHERS, AND WHEEL DISK LOCKING NUTS		

U.S. Registration No.	3674934	Application Date	04/12/2007
Registration Date	09/01/2009	Foreign Priority Date	NONE
Word Mark	GORILLA AXLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2003/01/01 First Use In Commerce: 2003/01/01 Heavy duty all terrain vehicle parts, namely, constant velocity axles; All terrain vehicle suspension lift kits primarily comprised of suspension A-arms, coil springs, steering stabilizers, shock mounts, strut mounts, sway bars and sway bar disconnects; Heavy duty all terrain vehicle constant velocity axle repair kits		

	<p>primarily comprised of bearings, races, cages and cir clips; Vehicle parts, namely, heavy duty shock absorbers and constant velocity joint boots for use with all terrain vehicles</p> <p>Class 025. First use: First Use: 2003/01/01 First Use In Commerce: 2003/01/01 shirts; hats</p>
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U.S. Registration No.	3657209	Application Date	12/09/2008
Registration Date	07/21/2009	Foreign Priority Date	NONE
Word Mark	GORILLA GUARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 012. First use: First Use: 1993/12/01 First Use In Commerce: 1993/12/01 Locks specially adapted for trailer couplers; locks specially adapted for trailer hitches; and locks specially adapted for trailer cables</p>		

U.S. Registration No.	3582128	Application Date	04/25/2007
Registration Date	03/03/2009	Foreign Priority Date	NONE
Word Mark	TEAM GORILLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 2004/01/01 First Use In Commerce: 2004/01/01 hats; shirts</p> <p>Class 035. First use: First Use: 2004/01/01 First Use In Commerce: 2004/01/01 advertising, including promotion of products and services of third parties through sponsoring arrangements and license agreements relating to international sports' events, namely, sponsoring participation of a race team in off-road all terrain vehicle racing</p>		

U.S. Registration No.	3786673	Application Date	09/15/2008
Registration Date	05/11/2010	Foreign Priority Date	NONE
Word Mark	GORILLA-LIFT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 008. First use: First Use: 2003/12/01 First Use In Commerce: 2003/12/01 Trailer tailgate lift assist device in the nature of a two sided hand operated lifting jack which attaches on the side rails of the trailer and extends to the tailgate</p>		

Attachments	NoticeOpposition.pdf (1 page)(24439 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michael P. Martin/
Name	Michael P. Martin
Date	05/10/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application

Serial No.: 85/695,817

Mark: Gorilla Biker

Filed: August 6, 2012

Published: February 19, 2013

Int'l Class: 25

AMCOR INDUSTRIES, INC., a California
corporation,

Opposer,

v.

CAR TATTOOS DECALS AND
SPORTSWEAR LTD., a New York
Corporation,

Applicant.

Opposition No.:

NOTICE OF OPPOSITION

Assistant Commissioner of Trademarks
PO Box 1451
Alexandria, VA 22313-1451

Sir:

Opposer Amcor Industries, Inc., a California corporation, (hereinafter "Opposer") believes that it will be damaged by registration of the mark shown in the above identified application, and hereby opposes the same in accordance with the provisions of Section 13 of the Lanham Act. (15 U.S.C. 1063) and Section 2(d) of the Lanham Act (15 U.S.C. 1052(d)).

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The grounds for opposition are as follows:

1. Opposer owns the following U.S. Federally Registered trademarks, among others: : No. 3542492 for the mark (Gorilla Design); No. 3566327 for the mark GORILLA GUARD; No. 3381925 for the Mark G; No. 1,988,115 for the mark (Gorilla Design); No. 1,914,798 for the mark GORILLA (Stylized); No. 1,863,650 for the mark GORILLA (and Gorilla Design); No. 1,863,649 for the mark GORILLA (Stylized); No. 1,706,562 for the mark THE GORILLA GRIP; No. 1,711,516 for the mark GORILLA; No. 1,483,315 for the mark GORILLA; No. 3,674,934 for the mark GORILLA AXLE; No. 3,657,209 for the mark GORILLA GUARD; No. 3,582,128 for the mark TEAM GORILLA; and No. 3786673 for the mark GORILLA-LIFT. Opposer has been using said marks since at least August, 1983 and has been using said marks in interstate commerce since at least August, 1983.

2. Opposer manufactures, sells, distributes, advertises, and licenses various types of automotive, motorcycle, atv and trailer products and accessories. Opposer utilizes the above-referenced GORILLA and Gorilla Design marks in various combinations on its products, in sales catalogs and in advertising to identify them as originating from Opposer.

3. Opposer has developed extensive goodwill with respect to its GORILLA and Gorilla Design marks, individually and in composite. Opposer has expended substantial sums in the advertising and promotion of its products, and by its efforts and its considerable expenditures for promotional activities, Opposer has developed an extensive and valuable reputation for its marks.

4. By virtue of its efforts, and the expenditures of considerable sums for promotional activities as well as the excellence of the quality of its products, Opposer has gained a valuable reputation through its above-identified GORILLA and Gorilla Design marks.

5. Opposer's marks are inherently distinctive, have acquired substantial goodwill and secondary meaning, and are famous within the meaning of 15 U.S.C. § 1125(c)(1).

6. On August 6, 2012, Car Tattoos And Sportswear Ltd. (hereinafter "Applicant") filed an application to register the mark GORILLA BIKER for clothing in International Class 25. This application was assigned Serial No. 85/695,817 and proceeded to publication in the Official Gazette of the United States Patent and Trademark Office on February 19, 2013.

7. Opposer is informed and believes that Applicant's proposed mark is likely to confuse Opposer's customers and potential customers, and the public generally in relation to its own marks.

9. Opposer is informed and believes that Applicant's use or intended use of the proposed mark began after Opposer's marks became famous and will and/or may dilute the strength of Opposer's marks by lessening the capacity of Opposer's marks to identify and distinguish Opposer's goods and services.

10. Opposer has not and does not consent in any way to Applicant's proposed use of the mark referenced herein.

WHEREFORE, Opposer respectfully requests that registration of Applicant's mark under the above identified application be refused and that this opposition be sustained.

Respectfully submitted,

FISCHBACH, PERLSTEIN, LIEBERMAN & ALMOND

Dated: May 10, 2013

By: /Michael P. Martin/
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Facsimile: (310) 556-4617
Attorneys for Opposer Amcor Industries, Inc.

CERTIFICATE OF MAILING AND SERVICE

The undersigned hereby certifies that NOTICE OF OPPOSITION is being filed electronically with the U.S. Patent & Trademark Office, Trademark Trial and Appeal Board; and a true and correct copy of this document is being served by e-mail and first class mail on attorney for Opposer on the date indicated below to:

CAR TATTOOS DECALS AND SPORTSWEAR LTD.
123 BELLEVUE PL
YONKERS, NEW YORK 10703-1606

Date: May 10, 2013

/Michael P. Martin/

Michael P. Martin